

PARTIDA, ANNA

PH - 1

From: David Haithcock <dhaithcock@costamesachamber.com>
Sent: Monday, November 27, 2023 10:36 AM
To: PC Public Comments
Cc: DRAPKIN, SCOTT; ERETH, ADAM; TOLER, RUSSELL; KLEPACK, KAREN; ZICH, JON; ROJAS, JOHNNY; VALLARTA, ANGELY; VIVAR, JIMMY
Subject: Support for Vista Meridian Global Academy
Attachments: Costa Mesa Chamber Letter of Support for Vista Meridian Global Academy.pdf

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November 27, 2023

City of Costa Mesa Planning Commission
77 Fair Dr
Costa Mesa CA 92626

Subject: Support for Vista Meridian Global Academy

Dear Members of the Costa Mesa Planning Commission,

On behalf of the Costa Mesa Chamber of Commerce, I am writing to convey our ardent support for Vista Meridian Global Academy's proposal to establish a new educational facility in the City of Costa Mesa.

Vista Meridian Global Academy has demonstrated a commitment to providing exceptional education through a dedicated team of highly credentialed educators, administrators, and support staff. Their innovative approach to learning and the implementation of a comprehensive curriculum will contribute positively to the educational landscape in our community.

As an organization deeply invested in the prosperity and growth of Costa Mesa, we are honored that Vista Meridian has chosen our city for their educational expansion. We believe that the presence of Vista Meridian will not only enhance the educational opportunities for local families but also contribute to the overall development of our community and the future success of our residents.

We urge the Planning Commission to consider the numerous benefits that Vista Meridian Global Academy will bring to our city and to grant the necessary approvals for the establishment of their new facility.

Sincerely,

David Haithcock
President and CEO

From: Wallid Kazi <wkazi@ecmconsults.com>
Sent: Monday, November 27, 2023 12:01 PM
To: PC Public Comments
Cc: Jon Chernila (jon@cco-cpa.com); Justin Nassie; Anna Schlotzhauer; 'Brent Haskell'; Ed Salcedo (esalcedo@gcapervices.com)
Subject: Objection to School Plan

I am writing this email to formally lodge an objection to the application for a public charter high school, Vista Meridian Global Academy, adjacent to our office building located at 3525 Hyland Avenue, Costa Mesa, CA, 92626.

The following are 6 point why this school application should be denied:

1. Incompatibility with Zoning Regulations:

The proposed public charter high school, Vista Meridian Global Academy, is intended to be located in an existing industrial office building in an office zone. Granting a Conditional Use Permit (CUP) for this school would deviate from the intended use of the office zone. This change could disrupt the character and purpose of the area, leading to potential conflicts with existing businesses and the surrounding community. Maintaining the integrity of the office zone zoning regulations is essential to preserving the intended land use and avoiding potential land-use conflicts.

2. Impact on the Nearby Vista Meridian Global Academy School:

The planning application seeks to establish a public charter high school in close proximity to the planned site of the Vista Meridian Global Academy School. This proximity could lead to operational challenges and conflicts. Noise, traffic congestion, and other disturbances associated with the new high school could disrupt the learning environment of the existing school. This potential disruption to the educational experience of students at the nearby school should be a significant concern, and granting the CUP may exacerbate these issues.

3. Traffic and Parking Concerns:

The proposed high school is expected to accommodate up to 500 students, along with staff, resulting in a substantial increase in vehicular traffic in the area during school hours. The Minor Conditional Use Permit (MCUP) for small car parking may not adequately address the potential traffic congestion and parking shortages that could arise. This could lead to safety hazards, inconvenience for the neighboring businesses, and traffic congestion on local roads. Given the limited parking provisions and the potential for increased traffic, the application should be denied unless it can adequately address these concerns.

4. Impact on Property Values:

The establishment of a public charter high school in an office zone could have adverse effects on property values in the vicinity. Potential concerns about increased traffic, noise, and changes in the character of the neighborhood may deter prospective buyers or tenants, leading to a decrease in property values. This could result in economic hardship for property owners and could have broader implications for the community's stability.

5. Safety and Security:

With a significant increase in the student population and staff, there may be safety and security concerns, especially if the school is located adjacent to an industrial area. Ensuring the safety of students, staff, and the surrounding community should be a top priority. The application should be denied unless a comprehensive safety and security plan is in place to address potential risks, including those associated with the industrial environment.

6. Adequate Infrastructure:

The proposed school would introduce a substantial number of students and employees to the area, putting a strain on local infrastructure such as utilities, public transportation, and emergency services. The application should be denied unless it demonstrates that the existing infrastructure can support the increased demand and that any necessary improvements will be made to prevent any negative impacts on the community.

These points highlight the potential negative impacts of granting the CUP for a public charter high school in an office zone near an existing school and the need to carefully consider the compatibility of the proposal with the surrounding area.

Wallid Kazi, Ph.D., P.G.

President

Direct 714.662.2757 | Main 714.662.2759



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PARTIDA, ANNA

PH -2

From: HALLIGAN, MICHELLE
Sent: Tuesday, November 21, 2023 5:03 PM
To: PC Public Comments
Subject: FW: Costa Mesa Cannabis Interest List Notification- MEETING NOT POSTED ON THE WEBSITE
Attachments: 1912 Harbor 9_28_2023 (1).pdf

From: Keith S <KMSesq@hotmail.com>
Sent: Tuesday, November 21, 2023 3:19 PM
To: DRAPKIN, SCOTT <SCOTT.DRAPKIN@costamesaca.gov>; HALLIGAN, MICHELLE <MICHELLE.HALLIGAN@costamesaca.gov>; FARRELL HARRISON, LORI ANN <LoriAnn@costamesaca.gov>
Subject: Re: Costa Mesa Cannabis Interest List Notification- MEETING NOT POSTED ON THE WEBSITE

Please include this letter to all commissioners (Please if possible, redact the street address of my home)

Keith Scheinberg ESQ

949-289-7467

From: DRAPKIN, SCOTT <SCOTT.DRAPKIN@costamesaca.gov>
Sent: Tuesday, November 21, 2023 2:53 PM
To: Keith S <kmsesq@hotmail.com>; HALLIGAN, MICHELLE <MICHELLE.HALLIGAN@costamesaca.gov>; FARRELL HARRISON, LORI ANN <LoriAnn@costamesaca.gov>
Subject: RE: Costa Mesa Cannabis Interest List Notification- MEETING NOT POSTED ON THE WEBSITE

Keith, see the below link
The PC agenda will be up shortly.

<https://costamesa.legistar.com/Calendar.aspx>



Scott Drapkin
Assistant Director
Development Services Department
77 Fair Drive | Costa Mesa | CA 92626 | (714) 754-5278

"The City of Costa Mesa serves our residents, businesses and visitors while promoting a safe, inclusive, and vibrant community."

City Hall is open to the public 8:00 a.m. to 5:00 p.m. Monday through Thursday and alternating Fridays, except specified holidays.

For expedited service, [appointments](#) are strongly encouraged.

From: Keith S <kmsesq@hotmail.com>

Sent: Tuesday, November 21, 2023 2:51 PM

To: HALLIGAN, MICHELLE <MICHELLE.HALLIGAN@costamesaca.gov>; FARRELL HARRISON, LORI ANN <LoriAnn@costamesaca.gov>; DRAPKIN, SCOTT <SCOTT.DRAPKIN@costamesaca.gov>

Subject: Costa Mesa Cannabis Interest List Notification- MEETING NOT POSTED ON THE WEBSITE

Why is the 11/27 Planning Commission meeting not posted on the website? I am trying to find the packet and agenda and it does not show a planning commission meeting on this date.

<https://costamesa.legistar.com/Calendar.aspx>

Keith Scheinberg ESQ

949-289-7467

From: HALLIGAN, MICHELLE <MICHELLE.HALLIGAN@costamesaca.gov>

Sent: Friday, November 17, 2023 3:11 PM

Subject: Costa Mesa Cannabis Interest List Notification

This message is to inform you that the Costa Mesa Planning Commission, at its next regularly scheduled meeting on November 27, 2023 starting at 6 PM, will review, consider public comments, and make a recommendation to the City Council regarding a proposed code amendment that would modify Title 13 (Planning, Zoning, and Development) of the CMMC regarding the City's retail cannabis provisions. No changes will be approved by the Planning Commission. Ordinance amendments are subject to City Council discretion, which would occur at a future City Council public hearing. The Planning Commission's review is limited to making recommendations to the City Council for the Council's ultimate consideration.

The November 27, 2023 Planning Commission meeting agenda and related documents may be viewed on the City's website at <https://costamesa.legistar.com/Calendar.aspx>, 72 hours prior to the meeting date. Instructions regarding how to participate in the meeting can also be found on the agenda. If you would like to submit written comments in advance of the meeting, please send comments via email to PCPublicComments@costamesaca.gov no later than noon the day of the meeting.

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Dear Planning Commission:

First part of this letter was sent 10/26 which included:

I am a long-time homeowner/business owner in CM (25+ years) and am very much looking forward to opening another business in my hometown with a CBP permit.

In February of 2021 we secured a location at 1912 Harbor blvd for a CBP and retail store. It is properly zoned for cannabis and we were very excited to apply for our retail license. We did not have any strawman/temporary/ measure X partners to be able to apply early (priority) in fact we played by the rules and applied 4 minutes after the portal opened at 8am on the day applications were accepted for nonpriority applicants. I am friends with several other CBP holders that have been approved and are building out their locations that did get priority applications. Most of the people who applied with priority applications no longer have those measure X people associated with their current entity structure however got to open their store with this priority application. This is patently unfair to the applicants who played by the rules and did not manipulate the priority system. I mentioned the possibility of this strawman scenario in a Zoom call when this was discussed and the city /staff assured the applicants that there were safeguards in place to prevent this priority system from being abused.

Many applicants in this queue for a CBP have been waiting years for the licenses. We have been waiting almost 2 years since our application was submitted and have been holding the lease on this property for almost 3 years in anticipation of opening a CBP location. I have spent my life's savings of approximately \$300,000 to date in lease hold money on this property in the hopes of opening a CBP retail store in my hometown which I love so much.

There are applicants that have purchased land and have expended millions of dollars in reliance on the ordinance passed by this city council June 15th 2021. It is inequitable for the city not to grant CUP hearings to the applicants currently in que and have submitted CBP applications. The issue of concentration was addressed during the review, discussion and voting on this ordinance and no recommendations were made at that time which lead many applicants to purchasing property and creating leaseholds on reliance of this discussion and the passing of:

Ordinance No. 2021-08 (Title 9, Business Licenses);
Ordinance No. 2021-09 (Title 13, Zoning).

WITH REGARDS TO THE CURRENT PLANNING MEETING ON 11/27

Overconcentration: All Cannabis stores are NOT the same. There are 100s of thousands of options when it comes to cannabis and one shop on one corner does not provide what the voters are expecting to see after passing measure Q and measure X. This would be equivalent to preventing a Taco Bell from opening across the street from Del Taco. They both serve tacos but are VERY different in items offered. If you have been in current shops there may be ten brands offered vs the tens of thousands that currently exist on the market. Voters approved this measure because they want a selection of cannabis, not the government telling them what brands they are allowed to purchase because of the cutting off of permit issuance and potential distance restrictions from store to store.

FREE MARKET DECISION: The free market should be making the decision on what businesses stay and which don't open or close down. Bad shops/ improperly run shops will close leaving a beautiful building in its place for another type of business to open. Some of these buildings that are getting renovated would NEVER see the amount of money that a cannabis shop would provide in a rebuild. Even if that cannabis shop is open for 6 months it will beautify the neighborhood

SECURITY FOR STREETS: Having 3 shops within 1000 feet of each other does not pose any risk of a stampede. If you have visited any of the currently open shops the parking lots are empty. There is not a rush on cannabis shops creating traffic etc. If anything, the increased security presence prevents crime on that street.

Our location at 1912 Harbor is directly across from Triangle Square and was an old Creatures Cottage followed by a King BBQ (approx 10 years ago). This property and mall has been dilapidated for almost a decade and we would like to put the money into it to finally get out of the eye sore stage. Our neighbors in the mall welcome us and the increased presence of security and further upscale business. There is no residence issue with this location as it is strictly on a commercial corridor.

I am requesting that the planning commission allow any applicants that have submitted and received pre application approval and have submitted a CBP to be processed and grandfathered into any restrictions that may be placed upon this ordinance. At the very least an exception should be made for any homeowner or business owner that currently lives in Costa Mesa should at least be able to have their application heard by the Planning Commission. There are several STOP guards in place through Planning and City council to prevent situations that would be bad for a neighborhood specifically, but placing a general stop without grandfathering in the current applicants is unreasonable and patently unfair and in my case bankrupting.

Sincerely,

Keith Scheinberg ESQ, CM Resident
949-289-7467

PARTIDA, ANNA

PH-2

From: Jim Fitzpatrick <jimfitzeco@gmail.com>
Sent: Monday, November 27, 2023 11:24 AM
To: PC Public Comments
Subject: Fwd: Public Comments - Public Hearing #2 - Cannabis
Attachments: Industry Letter to Reduce the Badge Fee 6.5.2023.pdf

Planning Commission,

Thank you for all you do.

The City Council has directed Commissioners and Staff to review possible modifications.

Please know that there are several modifications that need to be made that will benefit cannabis operators in the final stages of opening and once operating.

The City currently charges an exorbitant fee for issuing badges of \$631 for each badge

This is a burden to the business. No other business has such a fee burden. No other City has such a high fee.

The industry wrote the attached letter back in June.

The City claims to be business friendly.

Please recommend Staff make a change to significantly reduce this fee.

Your support means a lot

Thank you

Jim Fitzpatrick
Solutioneer

----- Forwarded message -----

From: Jim Fitzpatrick <jimfitzeco@gmail.com>
Date: Tue, Jun 6, 2023 at 11:22 AM
Subject: Public Comments - Public Hearing #3 - Master Fee Schedule
To: <cityclerk@costamesaca.gov>

Please support this industry request.

Cheers,

Jim Fitzpatrick
Solutioneer

--

Jim Fitzpatrick
949.257.8448

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Cannabis Industry Letter to Costa Mesa – Request to Lower the Badge Fees

TO: City Council, City Manager & Staff

FROM: Costa Mesa Cannabis Industry Stakeholders

The Cannabis Industry has a long history of working with the City of Costa Mesa to create a legal, regulated cannabis business sector. Part of this was established many years ago with the development and implementation of Measure X. And now with Measure Q, residents will finally have safe access to tested products.

With the implementation of Measure Q, it's worth considering the Cannabis Industry's contributions to the city thus far. To date, there have been monetary contributions of roughly \$2.5 million in Application Fees and approximately \$1 million in Traffic Impact Fees. While there are costs associated with developing and implementing Measure Q, these figures are quite substantial, not to mention that the 7% Sales Tax has yet to be coming into the city.

The Costa Mesa Cannabis Industry is graciously requesting to meet with the City to explore options to decrease the initial, and ongoing, burden of costs associated with hiring new employees, specifically how to reduce the \$631 Badge Fee. As reference, we polled Industry Operators regarding how other cities processed Employee Badges. The findings showed that the highest Employee Badge Fee was \$100. To illustrate the impact of the current \$631 fee, a Retail Store initially hiring 20 employees would incur \$12,620 in just Employee Badge Fees. And with an annual turnover rate of 50%, the Year 1 costs would be approximately \$20,000. This would be just for badges, and does not include the typical costs associated with the hiring process such as advertising the position, background checks, and training among others.

It's important to have an efficient and reliable process for onboarding employees for both businesses and the City. This is why we would like to work with the City to find a workable solution to reduce the costs associated with Employee Badges. Preliminarily, we have considered two possible options:

1. Reduce the \$631 Employee Badge Fee to a rate more in line with typical industry employee badge fees.
2. Decrease the City's required time and costs with a more streamlined process.
 - a. This could be achieved by shifting the employee badge process to the business, as is typical throughout the industry in other jurisdictions. Among other options, this could include:
 - i. Recording and Reporting of Employees
 - ii. Uploading Background Checks
 - iii. Printing Badges

Having discussed the business implications of the current high fee and cumbersome badge issuance process, the Cannabis Chamber of Commerce and many other stakeholders, support taking steps to find a less burdensome solution for both the City and business operators.

The Costa Mesa Cannabis Industry requests to a meeting between a small group of the industry's representative, and the appropriate City Staff to discuss potential options and solutions. Please let us know a day and time that works best, as we would like to get something on the calendar within the next 10 working days. We appreciate your time and consideration and look forward to continued collaboration as this new business sector is launched in the City.

Lastly, the process of background checks and issuing badges takes 4 to 6 weeks. We also need to develop a process to shorten that window which is devastating to operators to get open and fill positions.

Sincerely,

Cannabis Chamber of Commerce

Operators (Measure Q & X) Attached

Cannabis Industry Letter to Costa Mesa – Request to Lower the Badge Fees

SUPPORTERS:

Operators: (by Address)

- 2801 Harbor Blvd – Off the Charts
- 2275 Newport Blvd – Nectar
- 2424 Newport Blvd – Ash & Lex
- 2710 Harbor Blvd – Stiiizy
- 675 Paulorino – Stiiizy
- 1854 Newport Blvd – Mr Nice Guy
- 1860 Newport Blvd - Newport Leaf
- 2845 Harbor Blvd - Mr Nice guy
- 167 Cabrillo - Natures Garden
- 2332 Newport Blvd - Flower Factory
- 2664 Newport Blvd - Secret Garden
- 124 E 17 th St - Polaris
- 1921 Harbor Blvd - High Seas
- 1990 Harbor Blvd - 420 Central
- 1687 Orange Ave - Gold Flora
- 2146 Newport Blvd - Off the Charts
- 2001 Harbor Blvd - South Coast Safe Access
- 2905 Redhill Ave - Terra Firma
- 2301 Newport Blvd - Culture
- 2307 Harbor Blvd - The Drop
- 141 E 16 th St - Mercantile

Individuals:

- Jim Fitzpatrick
- Chris Glew
- Sean Maddox

PARTIDA, ANNA

PH-2

From: Arturo Sanchez <asanchez@unrivaledbrands.com>
Sent: Monday, November 27, 2023 11:26 AM
To: PC Public Comments
Subject: ITEM NUMBER PH-2 , Planning Commission Meeting November 27, 2023
Attachments: ITEM NUMBER PH-2 People's Costa Mesa - Planning Commission Comment.pdf

Please find attached public comment for Agenda ITEM NUMBER PH-2. Thank you.

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PEOPLE'S COSTA MESA, LLC

1848 Newport Blvd.
Costa Mesa, CA 92627

Electronically Filed City of Costa Mesa
Planning Commission

Re: POTENTIAL ORDINANCE TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE AND REQUISITE MODIFICATIONS REQUIRED IN TITLE 9 (BUSINESS LICENSES) FOR MODIFICATIONS TO THE CITY'S RETAIL CANNABIS PROVISIONS

Hon. Chair Ereth and Commissioners,

We were hoping that our first communication to you would be the presentation of our Conditional Use Permit (CUP) application materials, unfortunately it is not. Presently our materials have been resubmitted to City Staff for review and comment and are on the verge of receiving an Application Status Letter indicating the completeness of our application, a crucial step toward appearing before you for a Public Hearing. This has been a long and arduous two years to be at your doorstep, and now we face a potentially catastrophic and devastating change which could cause our significant investment to be for naught.

We write now to provide feedback and thoughts as you deliberate on the potential amendments and revisions to the City Cannabis process. People's Costa Mesa, LLC is a subsidiary and affiliate of several successful Dispensaries in the state of California. This includes Blum OC (Formerly known as People's OC) in Santa Ana, a dispensary that has consistently been rated as one of the top two dispensaries in Orange County. Our experience and success have allowed us to make significant investments in the communities in which we operate, hire locally with living wages and contribute to city tax rolls at a healthy rate.

What we have found is that our success and ability to contribute to local communities directly relates to the to the jurisdictions commitment to partner with cannabis companies by reducing complicated application and renewal procedures, treating cannabis companies more like traditional companies and reducing economic pressures by not adding to the states complex cannabis tax system. To date the City has established a rigorous application and vetting process, which, regrettably, has proven to be both lengthy and financially burdensome for us. We have made substantial investments in property acquisition, development planning, and retail design to ensure our project meets the high-quality standards expected for a project in the City of Costa Mesa. All of which become exponentially more expensive due to a slow bureaucratic process. As you take up this very important topic, we hope you will consider the following items to amend and improve the City's process.

First and foremost, we request that, for those applicants in the advanced stages of applications, and who have submitted the CUP application, which are now pending a Planning Commission Public hearing be exempted from the moratorium as follows:

PEOPLE'S COSTA MESA, LLC

1848 Newport Blvd.
Costa Mesa, CA 92627

1. Allow those CUP applications to have their public hearings. Based on the staff materials presented to the City Council this may be as few as 10 applicants;
2. If a moratorium is pursued, have it impact only those who are in the Pre-Application and Business Permit Application process, e.g., those who have not submitted a CUP application;
3. Do not impose buffers that impact applications that have applied for a CUP, as this will result in significant economic damage to companies that have invested in and are holding onto property for their application;
4. Consider positive changes that will help cannabis operators, such as lower tax rates based on local hire and community improvement efforts;
5. Eliminate the archaic and burdensome requirement to have City issued employee badges which currently cost \$631 per badge. Many cities have eliminated this requirement and or have a significantly lower administrative fee that is less a tax and more cost recovering. Also please note no other traditional business pays a similar expense;
6. Modify sign requirements to allow for signs that identify cannabis related business such as a green cross, this simple sign will allow parents to identify the facility, and prevent inadvertent entry with or by children;

We appreciate that the issues before you are weighty and difficult. Balancing the protection of the community with the need to support new business development and its potential positive impact to city resources. As you consider these weighty policy issues, please keep in mind that the cannabis industry is a business, an industry which contributes living wage jobs, improves economic outlook of cities, functions under a weighty and significant state regulatory and licensing regime designed to prevent many issues that uninformed and alarmist members of the public use as red herrings to upend thoughtful policy development. Please consider our suggestions and we encourage you to reach out to use directly. We are always happy to answer questions and would welcome an opportunity to have you tour any of our facilities.

Signed


Jim Miller
Chief Operating Officer

PARTIDA, ANNA

From: Chris Glew <glewlaw@gmail.com>
Sent: Monday, November 27, 2023 11:52 AM
To: PC Public Comments
Subject: Cannabis comments

Dear Planning Commission-

Please accept this letter with regard to the Cannabis Ordinance under Municipal Code Title 9 Chapter VI and Title 13. I represent a number of licensed cannabis operators in the City of Costa Mesa. I fully support allowing the use of the term Cannabis in advertising for retail shops. I support this policy due to the fact that all shops I have spoken to have reported that customers walk in that are not aware of what type of business they are entering. It can cause an awkward moment for many folks who prefer not to enter a cannabis shop. The operators need the support for identification like all other businesses in the city. In that same light, it would be very helpful if the city would publish a webpage to inform citizens what shops are approved and legal in the city to protect customers from illegal operators. The other major concern is the badge fees that are imposing an undue burden on the cannabis operators. Many operators are stuck not being able to terminate bad employees and not being able to afford to hire new staff. The fee for ten employees is over six thousand dollars. There is no way it cost the City of Costa Mesa six hundred dollars to livescan a single person. The City of Santa Ana actually stopped doing livescans because they wanted to increase opportunities for employment. The social policy behind excluding people from working at a retail shop should be reexamined. Lastly, we are willing to work collaboratively with the City to find ways to improve efficiency of the cannabis process and reduce the time and money required to perform these tasks.

Chris

Sent from my iPhone

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Correspondence
received after 12 noon
deadline.

PH-1



SUE ANN SALMON EVANS

Attorney at Law

sevans@DWKesq.com

Long Beach

TO BE INCLUDED IN THE RECORD

November 27, 2023

VIA EMAIL

Adam Ereth, Chair
Russell Toler, Vice Chair
Johnny Rojas, Planning Commissioner
Angely Andrade Vallarta, Planning Commissioner
Karen Klepack, Planning Commissioner
Jon Zich, Planning Commissioner
Jimmy Vivar, Planning Commissioner
Planning Commission
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
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johnny.rojas@costamesaca.gov
angely.vallarta@costamesaca.gov
jimmy.vivar@costamesaca.gov

Re: Newport-Mesa Unified School District,
Vista Meridian Global Academy;
Our file 5260.1108

Dear Chair Ereth, Vice-Chair Toler, and Planning Commissioners Rojas, Vallarta, Klepack, Zich and Vivar:

This office represents the Newport Mesa Unified School District ("NMUSD" or "District"). NMUSD just learned just this morning that the City of Costa Mesa Planning Commission ("Commission") will be considering a resolution related to locating the Vista Meridian Global Academy Charter School ("Vista Meridian") at 1620 Sunflower Avenue, Costa Mesa ("Resolution") – within the boundaries of NMUSD. Notably, at no time during the application process was the District notified of the application or any actions taken related thereto. NMUSD has significant concerns with the proposed

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Suite 400
San Francisco, CA 94111
TEL 415.543.4111
FAX 415.543.4384

LONG BEACH
444 W. Ocean Blvd.
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Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

SAN DIEGO
750 B Street
Suite 2600
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

CHICO
2485 Notre Dame Blvd.
Suite 370-A
Chico, CA 95928
TEL 530.343.3334
FAX 530.924.4784

SACRAMENTO
555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916.978.4040
FAX 916.978.4039

EAST BAY
2087 Addison Street
2nd Floor
Berkeley, CA 94704
TEL 510.345.6000
FAX 510.345.6100

FRESNO
7170 N Financial Drive
Suite 135
Fresno, CA 93720
TEL 559.388.5802
FAX 559.388.5803

www.DWKesq.com

action by the Commission under the Charter Schools Act ("Act") as well as the law governing the California Environmental Quality Act ("CEQA"). **NMUSD hereby objects to any action authorizing, permitting or sanctioning Vista Meridian locating at the Sunflower Avenue address or any other location within the District boundaries.**

1. The Charter School Act Precludes Vista Meridian from Locating at the Proposed Site

As a matter of law, Vista Meridian may not locate within the NMUSD boundaries and the District objects to any action purporting to authorize Vista Meridian to locate at 1620 Sunflower Avenue, Costa Mesa, or any other location within the District boundaries. Vista Meridian is a charter school authorized by the Orange County Board of Education ("OCBOE"). It was approved as a countywide charter school under Education Code section 47605.6 and is bound by the Act. Charter schools are, in fact, "*strictly creatures of statute.*" (*Wilson v. State Board of Education* (1999) 75 Cal.App.4th 1125, 1135; emphasis in original.) The Act is very specific about where a charter may locate and specifies that no countywide charter may locate in a district that was not notified of the charter school's intention to locate in the district's boundaries nor may it locate in any location that is not identified in the approved charter document. (Ed. Code, § 47605.6.)

Here, the charter does *not* include a location on Sunflower Avenue nor any other site within the NMUSD boundaries. Moreover, Vista Meridian did not provide notice to NMUSD of the intent to locate in the District. To the contrary - Vista Meridian expressly informed the District it would *not* locate in the District boundaries. (See attached ["First I want to reassure you that we do not have any current or future plans to expand into your district"].) Thus, it is a violation of law for Vista Meridian to locate at 1620 Sunflower Avenue, Costa Mesa, or any other site within the District. As the foundation of the proposed action is contrary to law, we urge the Commission to reject the Resolution and related proposals.

2. The Proposed CEQA Action Does Not Conform to Law

The proposed Resolution finds that locating and operating Vista Meridian is categorically exempt from CEQA pursuant to the Class 1 exemption set forth in CEQA Guidelines Section 15301. This exemption "consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving *negligible or no expansion of existing or former use.*" (CEQA Guideline, § 15301, emphasis added.) In fact, the key consideration to determining whether this exemption applies is whether the proposed project involves "negligible to no expansion of use." Here, while Vista Meridian may be proposing to make minor improvements to this existing office building, operating a public charter school in these facilities is an entirely new use that is both different from and potentially a significant expansion of use.

Based on our limited time to review of the record given the District was only informed of this proposed action this morning, there seems to be no assessment of whether use of this property as a public school would expand the use of the property. We believe it would certainly change the use substantially from any existing or prior use of the site such that the project, as a whole (construction and use of the facilities) would not be eligible for a Class 1 exemption.

Further, the mere fact that a use is permitted by local zoning does not render it exempt from compliance with CEQA. Projects must be evaluated on an individual basis to determine the required level of CEQA compliance. Placing a *new* school in an Industrial Park zone, with limited vehicular access for the nearly 500 plus anticipated students, together with school site staff, and no outdoor recreational space for students during the school day would hardly seem to carry forward the type of existing or former use contemplated by a Class 1 exemption.

Lastly, while the "Findings" set forth in Exhibit A to the proposed Resolution state that the project "would not have a significant effect on the environment due to unusual circumstances," – which imposes an exception to using a categorical exemption – there is not substantial evidence in the record supporting application of Class 1 exemption. As noted in the recent decision, *California Construction and Industrial Materials Association v. County of Ventura* (2023) --- Cal.Rptr.3d ----, a lead agency may not merely state that an exemption applies to a proposed project. Rather, the lead agency's decision *must be supported with substantial evidence*. (Ibid.) Here, given the proposed new use of the site as a school, we do not believe such evidence exists in the record. Accordingly, we ask that Commission deny approval of the Notice of Exemption, and instead direct staff to fully address the environmental impacts of this proposed project in compliance with CEQA.

The District reserves all objections, rights and remedies related to this matter.

Very truly yours,

DANNIS WOLIVER KELLEY

Sue Ann Salmon Evans

SASE:sdf

From: Brent Stoll <Brent@roseequities.com>
Sent: Monday, November 27, 2023 5:44 PM
To: PC Public Comments
Cc: DRAPKIN, SCOTT; ERETH, ADAM; TOLER, RUSSELL; KLEPACK, KAREN; ZICH, JON; ROJAS, JOHNNY; VALLARTA, ANGELY; VIVAR, JIMMY
Subject: Vista Meridian Global Academy

Planning Commission,

We would like to lend our support for the Vista Meridian Global Academy school site, located at 1600 - 1620 Sunflower Avenue.

The South Coast Metro West (inclusive of these properties) submarket is a changing to a mixed-use, resilient neighborhood, demanded by today's dynamic businesses, employees and residents alike.

New and future land uses at the Press, the changing Hive, SOCO, Home Ranch, VANs and our site at One Metro West, are the foundation for this north of the 405 neighborhood. The inclusion of a charter school will only add to the character.

There are natural pedestrian advantages of this neighborhood, including narrow east/west streets and the Santa Ana River Trail.

As these land uses in South Costa Metro West change, we hope the city leaders and planners continue to develop the pedestrian infrastructure in the area.

By encouraging non-auto trips, the neighborhood can continue to build on these inherent advantages and blossom.

We look forward to work with the city and surrounding property owners, on the proposed pedestrian improvements to Sunflower Avenue, associated with One Metro West (west of Hyland).

And we look forward to welcoming Vista Meridian Global Academy to the neighborhood.

Best,

Brent Stoll

Brent Stoll

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